

## Maine Revised Statutes

### Title 32: PROFESSIONS AND OCCUPATIONS

#### Chapter 117: MAINE PHARMACY ACT HEADING: PL 1987, c. 710, §5 (new)

##### §13723. OTHER DUTIES, POWERS AND AUTHORITY

The board has such other duties, powers and authority as may be necessary to enforce this Act and the board may adopt rules pursuant to this Act, which include, but are not limited to, the following. [1987, c. 710, §5 (NEW).]

**1. Professional associations.** The board may join professional organizations and associations organized exclusively to promote the improvement of the standards of the practice of pharmacy for the protection of the health and welfare of the public and whose activities assist and facilitate the work of the board.

[ 1987, c. 710, §5 (NEW) .]

**2. Bond.** In addition to any statutory requirements, the board may require such surety bonds as it considers necessary to guarantee the performance and discharge of the duties of any officer or employee receiving and disbursing funds.

[ 2007, c. 402, Pt. DD, §10 (AMD) .]

**3. Seal.**

[ 2007, c. 402, Pt. DD, §10 (RP) .]

**4. Reports.**

[ 2007, c. 402, Pt. DD, §10 (RP) .]

**5. Fees.**

[ 2005, c. 262, Pt. B, §2 (RP) .]

**6. Grants.** The board may receive and expend funds, in addition to its annual allocation, from parties other than the State, as long as:

A. The funds are awarded for the pursuit of a specific objective that the board is authorized to accomplish by this Act or that the board is qualified to accomplish by reason of its jurisdiction or professional expertise; [2007, c. 402, Pt. DD, §10 (AMD).]

B. The funds are expended for the pursuit of the objective for which they are awarded; [1987, c. 710, §5 (NEW).]

C. Activities connected with or occasioned by the expenditures of the funds do not interfere with or impair the performance of the board's duties and responsibilities and do not conflict with the exercise of the board's powers as specified by this Act; [1987, c. 710, §5 (NEW).]

D. The funds are kept in a separate, special state account; and [1987, c. 710, §5 (NEW).]

E. Periodic reports are made to the commissioner concerning the board's receipt and expenditure of the funds. [1987, c. 710, §5 (NEW).]

[ 2007, c. 402, Pt. DD, §10 (AMD) .]

**7. Investigatory powers.** The board shall notify the Department of the Attorney General upon receipt of a complaint. Upon receipt of the notifications, the Attorney General shall notify the department within a timely period if the alleged violation requires criminal investigation. If a case does not require criminal investigation, the board or its authorized representatives may investigate and gather evidence concerning alleged violations of this Act or of the rules of the board. The board or an authorized representative pursuant to paragraph A may remove from any premises authorized for inspection pursuant to section 13721, subsection 1, paragraph D certain original records relating to scheduled drugs or controlled substances, including, but not limited to, prescription records, shipping and delivery records, patient profiles, inventories and other drug records for the purposes of analysis, duplication and furthering the investigation. A signed inventory receipt of any records being removed must be furnished to the premises by the board or an authorized representative. When a means of producing legible photocopies is readily available at the site of the records being removed, an authorized representative removing the records shall leave photocopies of the records as part of an inventory receipt in accordance with this subsection. Except when photocopies are left as part of an inventory receipt, the board or an authorized representative removing records from the premises shall, within 48 hours from the time of removal, provide to a representative of the premises photocopies of any removed records, together with a certificate identifying the agency in possession of the records, or return the original records. Inventory receipts and photocopies of any removed records provided by the board or an authorized representative are admissible as evidence if offered by any representative of the premises to prove compliance with any rule of the board or requirement of law.

A. Prescriptions, orders and records required by this chapter and stocks of prescription and legend drugs are open only to the board, the board's authorized representatives, federal and state law enforcement officers whose duty it is to enforce the laws of this State or of the United States relating to scheduled drugs or controlled substances or to enforce conditions of probation or other supervision imposed by a court relating to scheduled drugs or controlled substances and other law enforcement officers authorized by the board, the Attorney General or the district attorney for the purposes of inspecting, investigating and gathering evidence of violations of law or any rule of the board. A person having knowledge by virtue of the person's office of any such prescription, order or record may not divulge that knowledge, except before a licensing board or representative or in connection with a prosecution or proceeding in court. [2009, c. 415, Pt. A, §19 (RPR).]

B. The Bureau of Health, the board, their officers, agents, inspectors and representatives, all peace officers within the State and all prosecuting attorneys shall enforce all provisions of this chapter, except those specifically delegated, and shall cooperate with all agencies charged with the enforcement of the laws of the United States, of this State and of all other states relating to prescription or legend drugs or their equivalent. [1991, c. 274, §2 (AMD).]

C. [1995, c. 621, §4 (RP).]

[ 2009, c. 415, Pt. A, §19 (AMD) .]

**8. Embargo.** The board may embargo certain drugs or devices as follows.

A. Notwithstanding anything in this Act to the contrary, if a duly authorized representative of the board finds or has probable cause to believe that any drug or device is adulterated or misbranded within the meaning of the United States Food and Drug Act, the board representative shall affix to the drug or device a tag or other appropriate marking giving notice that the article is or is suspected of being adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of the article by sale or otherwise until provision for removal or disposal is given by the board, its representative or the court. No person may remove or dispose of the embargoed drug or device by sale or otherwise without the permission of the board or its representative or, after summary proceedings have been instituted, without permission from the court. [2007, c. 402, Pt. DD, §10 (AMD) .]

B. When a drug or device detained or embargoed under paragraph A has been declared by a representative of the board to be adulterated or misbranded, the board shall, as soon as practical, report the declaration to the Attorney General's office, along with sufficient information to permit the Attorney

General to bring a petition for an injunction to the judge of the court in whose jurisdiction the article is detained or embargoed. If the judge determines that the drug or device so detained or embargoed is not adulterated or misbranded, the board shall direct the immediate removal of the tag or other marking. [1987, c. 710, §5 (NEW).]

C. If the court finds the detained or embargoed drug or device is adulterated or misbranded, that drug or device, after entry of the decree, shall be destroyed at the expense of the owner under the supervision of the board representative and all court costs and fees, storage and other proper expense shall be borne by the owner of the drug or device. When the adulteration or misbranding may be corrected by proper labeling or processing of the drug or device, the court, after entry of the decree and after the costs, fees and expenses have been paid and a good and sufficient bond has been posted, may direct that the drug or device be delivered to the owner for labeling or processing under the supervision of a board representative. The expense of the supervision shall be paid by the owner. The bond shall be returned to the owner of the drug or device on representation to the court by the board that the drug or device is no longer in violation of the embargo and the expense of supervision has been paid. [1987, c. 710, §5 (NEW).]

[ 2007, c. 402, Pt. DD, §10 (AMD) .]

### 9. Budget.

[ 1995, c. 397, §111 (RP) .]

**10. Procedure.** Except as otherwise provided, the board shall exercise all of its duties, powers and authority in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

[ 1987, c. 710, §5 (NEW) .]

**11. Exemption.** The board may exempt a free clinic from all fees, in whole or in part, set under this chapter.

[ 2007, c. 402, Pt. DD, §10 (AMD) .]

### SECTION HISTORY

1987, c. 710, §5 (NEW). 1991, c. 274, §2 (AMD). 1995, c. 251, §1 (AMD). 1995, c. 397, §111 (AMD). 1995, c. 499, §4 (AMD). 1995, c. 499, §5 (AFF). 1995, c. 621, §4 (AMD). 1997, c. 245, §§9,10 (AMD). 1999, c. 42, §3 (AMD). 2005, c. 262, §B2 (AMD). 2007, c. 344, §10 (AMD). 2007, c. 402, Pt. DD, §10 (AMD). 2009, c. 415, Pt. A, §19 (AMD).

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